

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on January 13, 2003 at 9 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Larry Lehman (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Time counter notations precede the testimony.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 91, 12/30/2002
Executive Action: HB 25 DO PASS AS AMENDED,
HB 34 DO PASS, HB 37 DO PASS,
HB 38 DO PASS AS AMENDED, HB 41 DO PASS,
HB 91 DO PASS

HEARING ON HB 91

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.4}

Opening Statement by Sponsor:

REP. TOM FACEY, HD 67, MISSOULA, said that the meat of the bill is in lines 10-12. In the current law, if there is a regular or special session, a new legislator must be appointed within 15 days.

{Tape: 1; Side: A; Approx. Time Counter: 3.4 - 4.4}

Proponents' Testimony:

Janice Doggett, Chief Legal Counsel, Secretary of State's Office, articulated that, in the event a legislator becomes unable to serve, the Secretary of State must notify the county and the party. The party must then submit names to the County Commission. If the legislative district crosses county lines, the counties involved must get consensus on whom to appoint.

Informational Testimony: NoneQuestions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 4.4 - 11.4}

REP. DEE BROWN asked why the bill separates representatives and senators. The sponsor said that it was a housecleaning part of the bill. **REP. BROWN** referred the question to **Ms. Doggett**, who said she was not sure why it was worded that way. The committee asked **Sherri Heffelfinger, Legislative Aide**, who explained that it relates to the number of votes cast in a district. She said there are senate districts and representative districts. She referred to p. 1 line 21 of the bill.

REP. DAN HURWITZ cited an example of a representative who resigned four years ago, where there had to be three County Commissioners agree on the replacement, and it "got complicated."

REP. NORMAN BALLANTYNE wondered if the bill applies also to representatives-elect or senators-elect. **REP. FACEY** quoted Montana Codes Annotated (MCA) Sec. 2-216-501 where it gives reasons why an appointment may be made, including death or mental disorder resulting in hospitalization, resignation or removal of the candidate, or when they move out of state. He said he needs more time to look over this part of the bill.

REP. BERNIE OLSON said the bill doesn't address the issue of special sessions. He asked if a special session counts as a term for term limit purposes. **Ms. Doggett** said a new bill in this session, does not count an appointment immediately preceding an election for term-limit purposes.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 11.4 - 12}

REP. FACEY said the intent of the bill is to give everyone involved more time to make a right decision.

EXECUTIVE ACTION ON HB 25

{Tape: 1; Side: A; Approx. Time Counter: 12 - 16.2}

Motion: **REP. HAL JACOBSON** moved **HB 25 DO PASS.**

Motion to Amend: **REP. LARRY JENT** moved **HB 25 BE AMENDED (2501.ash).**

EXHIBIT (sth06a01)

Discussion:

REP. JENT said this amendment would not allow party symbols beside the name. He explained that there are many multi-county districts and the ballot may not be equal if one does and one does not have a symbol. He added that this bill is identical to a bill tabled last session. **REP. PAT WAGMAN** had a question on procedure and asked if a motion is necessary for the amendment. **CHAIRMAN DEBBY BARRETT** said **REP. JENT** had just moved the amendment.

Vote: The motion to amend carried 19-0, by voice vote with **REP. LARRY LEHMAN** voting by proxy.

Motion: **REP. ALAN OLSON** moved **HB 25 DO PASS AS AMENDED.**

{Tape: 1; Side: A; Approx. Time Counter: 17 - 23.8}

Discussion:

REP. WAGMAN spoke against the motion and asked why they should restrict one who may represent more than one voter group. He asked why their choices should be limited and urged to let them

make the choice for themselves. **CHAIRMAN BARRETT** said she will vote no on this bill; it restricts candidates. In a primary, voters can switch and vote in any party primary. She said that they are putting the cart before the horse. **REP. CINDY YOUNKIN** asked someone to paraphrase the sponsor's argument. **REP. BROWN** said the voting public needs to know which party a candidate will declare for. **REP. ALAN OLSON** said the arguments were the same as when the bill was heard last session. A popular candidate can actually win more than one primary. Two years ago John Bollinger won both the democratic and republican primaries in Billings, so he agreed that **CHAIRMAN BARRETT**'s argument is a good one.

REP. HURWITZ asked how they could run on two tickets. **REP. JENT** said in his district a green party candidate got 19% of the vote. It's possible a democrat could get the votes of both democrats and libertarians. The primary party votes can't be aggregated; for example, a candidate running as a republican and as a constitutional party candidate cannot have the two party vote totals added together. It's only practical if they get nominated as republican and democrat at the same time. **REP. SUE DICKENSON** said the sponsor's intent was to correct a situation that when a very popular candidate runs in two parties, it cuts out another candidate.

Vote: On a roll call vote, the motion carried 11-8 with **REPS. BARRETT, BROWN, LEHMAN, ALAN OLSON, SCHRUMPF, FRANK SMITH, WAGMAN** and **YOUNKIN** voting no.

EXECUTIVE ACTION ON HB 34

{Tape: 1; Side: A; Approx. Time Counter: 26 - 28.5}

Motion: **REP. HAL JACOBSON** moved **HB 34 DO PASS**.

Discussion:

REP. BROWN spoke in favor and urged a DO PASS. She said just a handful of retail sales contractors don't comply. **REP. JENT** said that it's a consumer protection bill.

Vote: By voice vote, the motion **HB 34 DO PASS** carried 19-0 with **REP. LEHMAN** voting by proxy.

EXECUTIVE ACTION ON HB 35

{Tape: 1; Side: A; Approx. Time Counter: 28.5 - 30.7}

Motion: REP. JACOBSON moved HB 35 DO PASS.

Discussion:

{Tape: 1; Side: B; Approx. Time Counter: 30.7 - 38}

REP. JACOBSON stated it would include National Guard veterans in the public employment preference law. He stated that General Prendergast, after serving 44 years, would still not be eligible for the preference without this law. REP. BROWN said she will vote no, even though her husband is a disabled veteran and her father and grandfather served in wartime. She said in the Vietnam era, one joined the Guard to circumvent the draft. REP. JENT said he is a West Point graduate and Vietnam vet, and he agreed with her previously, but that the volunteer army since 1973 relies on the Guard; the Guard and Reserve comprise one brigade per division for logistical support. REP. JENT said a 20-year old in the Guard was as likely to be deployed as he was.

REP. BALLANTYNE and REP. BERNIE OLSON said they oppose the bill. REP. ALAN OLSON said he supports this bill because in cases when a Guard member does not stay for 180 days on foreign soil, they are not included under this bill. He explained that the Guard of today is considered different from the Guard of the past and are subject to being called out at any time from the Guard. REP. RALPH LENHART said he liked the intent of the bill, but agrees with REP. BROWN. He would like an amendment. CHAIRMAN BARRETT asked if anyone had prepared an amendment. No one had.

{Tape: 1; Side: B; Approx. Time Counter: 37.8 - 38}

Motion: REP. BROWN moved that AN AMENDMENT BE PREPARED BY REP. A. OLSON to satisfy the other views.

Discussion:

REP. JENT said the Guard should not get special treatment. REP. ALAN OLSON asked REP. BROWN if she would agree with the bill if they take out "180 days" and replace it with "active duty." He asked if active duty would include fire season. REP. BROWN said it probably would not. REP. ALAN OLSON said active duty would include homeland security. REP. BROWN said she would accept that. REP. JONATHAN WINDY BOY asked if the amendments have to be presented in written form before they are adopted.

CHAIRMAN BARRETT replied that the committee can discuss changes while discussing the original amendment. **REP. ALAN OLSON** said there are instances when Guard units are called out but brought back before 180 days, so that the federal government doesn't have to give them certain benefits. He called witness **Roger Hagan** from the audience to clarify this issue.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 43 - 49.8}

Roger Hagan, lobbyist for National Guard Officer and Enlisted Associations, conveyed that he is also the military personnel officer for the Air National Guard Headquarters. **Mr. Hagan** testified that a Department of Defense study showed there are 87 different possible ways to be deployed. Current deployments are limited to 179 days. On the 180th day, those troops are counted as active duty personnel. The 179th day limit has to do with appeasing the foreign governments where troops are. The Guard was not designed to be there long term. This bill would recognize Guard members. He gave an example where a Guard member served on fire lines in 2000 and got injured while serving in this job that makes less than her regular job, and then was medically disqualified from the Guard and from military service. She did not have enough years in to qualify for disability benefits. **Mr. Hagan** said that there is no protection for the Guard when they go to active duty.

Discussion:

REP. BROWN said she concurs with **Mr. Hagan**. She referenced the amendment where it says the "cumulative total" of 180 days, which doesn't have to be at one time. **CHAIRMAN BARRETT** asked for clarification. **REP. BROWN** said she is voting for the amendment. **REP. BALLANTYNE** said that some Guardsmen may be killed on day one of active duty. He asked if this amendment would eliminate them, and what status the Guard would be considered if the US is invaded. **REP. BERNIE OLSON** said that he likes the amendment, but would strike out the "180 days". The committee asked Legislative Aide **Sherri Heffelfinger** for help. **Ms. Heffelfinger** said look at the current law. Line 20 says disabled vets have a separate set of preferences. **REP. OLSON** asked if that would cover his example. **Ms. Heffelfinger** replied that it would.

REP. JENT asked if they were still on the amendment. **CHAIRMAN BARRETT** said that they were.

{Tape: 1; Side: B; Approx. Time Counter: 54.2 - 55}

Substitute Motion/Vote: REP. JENT then offered a substitute motion to **POSTPONE CONSIDERATION OF HB 35 AMENDMENT TO THE NEXT EXECUTIVE ACTION SESSION.** On a voice vote the motion **carried 15-4**, REP. LEHMAN voting by proxy. Voting no were REPS. WINDY BOY, WAGMAN, BROWN and SMITH.

CHAIRMAN BARRETT said that they will deal with HB 35 tomorrow.

EXECUTIVE ACTION ON HB 37

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.1}

MOTION: REP. CINDY YOUNKIN moved **HB 37 DO PASS.**

Discussion: REP. BROWN noted that this is a bill to pay for an understaffed office. She said that the proponent told them that copying is an interruption and they need to pay for this service. She is in favor.

Vote: On a voice vote the motion **carried 19-0 with REP. LEHMAN voting by proxy.**

EXECUTIVE ACTION ON HB 38

{Tape: 1; Side: B; Approx. Time Counter: 00 - 6.5}

Motion: REP. ALAN OLSON moved **HB 38 DO PASS AS AMENDED (3801.ash).**

EXHIBIT (sth06a02)

Discussion:

REP. ALAN OLSON declared that when word of this legislation came out, lobbyists poured a flood of paper in to get their reports filed, but some still did not. This is an issue of the public's right to know. He pointed to an amendment prepared by the Legislative Staffer. REP. LARRY JENT said he supports the amendment as a due process, since it gives notice and opportunity to be heard.

Vote: The motion **carried 19-0 with REP. LEHMAN voting by proxy.**

EXECUTIVE ACTION ON HB 41

{Tape: 1; Side: B; Approx. Time Counter: 11 - 12}

Motion: REP. ALAN OLSON moved HB 41 DO PASS.

Discussion: CHAIRMAN BARRETT said she will vote yes.

Vote: On a voice vote, the motion carried 19-0 with REP. LEHMAN voting by proxy.

EXECUTIVE ACTION ON HB 44

REP. FRANK SMITH said he is still waiting for information.

CHAIRMAN BARRETT said the committee will do executive action on HB 44 on Friday, January 17.

EXECUTIVE ACTION ON HB 63

CHAIRMAN BARRETT said she phoned the witness, Doug Monger, for the requested information but did not hear back from him, so she will put this bill on hold.

EXECUTIVE ACTION ON HB 91

Motion: REP. YOUNKIN moved DO PASS HB 91.

Discussion: REP. YOUNKIN said the bill is necessary. It is a problem to have to appoint a legislator within 15 days of his predecessor leaving. The time period leaves no opportunity for public comment.

Vote: On a voice vote the motion carried 19-0 with REP. LEHMAN voting by proxy.

ADJOURNMENT

Adjournment: 10:10 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth06aad)